

1  
2  
3  
4  
5  
**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF ARIZONA**

6  
7  
8  
9 C.M., et al.,

No. CV-19-05217-PHX-SRB

10 Plaintiffs,

**ORDER SETTING RULE 16 CASE**  
**MANAGEMENT CONFERENCE**

11 v.

12 United States of America.,

13 Defendant.

14  
15 Pursuant to Rule 16 of the Federal Rules of Civil Procedure, a Case Management  
16 Conference is set for **June 18, 2020, at 10:30 a.m.** The Rule 16 Case Management  
17 Conference will be telephonic. Counsel shall not appear in person. Counsel are  
18 directed to call (866) 390-1828; Access Code: 9667260 five minutes prior to the  
19 scheduled hearing. Counsel are advised that speaker phones are not permitted.

20 . In preparation for this Case Management Conference, it is hereby ordered as follows:

21 A. Rule 26(f) Meeting and Case Management Report.

22 The parties are directed to meet and confer at least 10 days before the Case  
23 Management Conference as required by Federal Rule of Civil Procedure 26(f). At this  
24 meeting the parties shall develop a joint Case Management Report which contains the  
25 information called for in section B below.

26 B. Mandatory Initial Discovery Pilot Project.

27 The Court is participating in the Mandatory Initial Discovery Pilot Project  
28 ("MIDP"). The MIDP was approved by the Judicial Conference of the United States and

1 has been implemented in this District by General Order 17-08. The MIDP applies to all  
 2 civil cases filed on or after May 1, 2017, other than cases listed in Rule 26(a)(1)(B), actions  
 3 under the Private Securities Litigation Reform Act (“PSLRA”), and cases transferred for  
 4 consolidated administration in this District by the Judicial Panel on Multidistrict Litigation.  
 5 The discovery obligations in the MIDP supersede the disclosures required by Rule 26(a)(1)  
 6 and are framed as court-ordered mandatory initial discovery. Unlike initial disclosures  
 7 required by current Rule 26(a)(1)(A) & (C), the MIDP does not allow parties to opt out.  
 8 Thus, if your case was filed after May 1, 2017, and does not fall within one of the  
 9 exceptions identified above, you must comply with the discovery obligation of the MIDP.  
 10 You should have received a notice regarding the pilot project when your case was filed or  
 11 you were served, and you should already be complying with the MIDP. Resources related  
 12 to the MIDP are available on the Court’s website at  
 13 <http://www.azd.uscourts.gov/attorneys/mandatory-initial-discovery-pilot>.

14 C. Joint Case Management Report.

15 The parties’ Joint Case Management Report shall contain the following information  
 16 in separately numbered paragraphs.

- 17 1. The parties who attended the Rule 26(f) meeting and assisted in developing  
   the Case Management Report;
- 19 2. A list of the parties in the case, including any parent corporations or entities  
   (for recusal purposes);
- 21 3. A short statement of the nature of the case (3 pages or less);
- 22 4. The jurisdictional basis for the case, describing the basis for jurisdiction (see  
   the accompanying footnote) and citing specific jurisdictional statutes;<sup>1</sup>

---

25 <sup>1</sup> If jurisdiction is based on diversity of citizenship, the report shall include a statement of  
 26 the citizenship of every party and a description of the amount in dispute. See 28 U.S.C.  
 27 §1332. The parties are reminded that (1) a corporation is a citizen of the state where it is  
 28 incorporated and the state of its principal place of business, and (2) partnerships and limited  
 liability companies are citizens of every state in which one of their partners or members  
 resides. See 28 U.S.C. §1332(c); *Indus. Tectonics v. Aero Alloy*, 912 F.2d 1090, 1092 (9th  
 Cir. 1990); *Belleville Catering Co. v. Champaign Market Place, L.L.C.*, 350 F.3d 691, 692

1       5. Any parties which have not been served and an explanation of why they have  
2 not been served, and any parties which have been served but have not answered or  
3 otherwise appeared;

4       6. A statement of whether any party expects to add additional parties to the case  
5 or otherwise to amend pleadings (the Court will set a deadline at the Case Management  
6 Conference for joining parties and amending pleadings);

7       7. A listing of contemplated motions and a statement of the issues to be decided  
8 by these motions (including motions under Federal Rules of Evidence 702, 703, 704,  
9 and 705);

10      8. Whether the case is suitable for reference to a United States Magistrate Judge  
11 for a settlement conference or trial;

12      9. The status of related cases pending before other courts or other judges of this  
13 Court;

14      10. A discussion of any issues relating to preservation, disclosure, or discovery  
15 of electronically stored information, including the parties' preservation of electronically  
16 stored information and the form or forms in which it will be produced (*see* Rules 16(b)(3),  
17 26(f)(3));

18      11. A discussion of any issues relating to claims of privilege or work product  
19 (*see* Rules 16(b)(3), 26(f)(3));

20      12. A discussion of whether an order under Federal Rule of Evidence 502(d) is  
21 warranted in this case;

22      13. A discussion of the parties' compliance to date with the MIDP, whether any  
23 issues have arisen under the MIDP, and, if issues have arisen, a description of those issues  
24 so the Court may resolve them at the Rule 16 conference. If the Rule 26(f) joint report  
25

---

26 (7th Cir. 2003). The parties are further reminded that the use of fictitious parties ("John  
27 Doe" or "ABC Corporation") "casts no magical spell on a complaint otherwise lacking in  
28 diversity jurisdiction." *Fifty Assocs. v. Prudential Ins. Co. of Am.*, 446 F.2d 1187, 1191  
(9th Cir. 1970) (citations omitted).

1 raises MIDP issues for the Court to resolve, copies of the parties' MIDP disclosures should  
2 be attached to the report.

3       14. A discussion of necessary discovery. This discussion should take into  
4 account the December 1, 2015 amendments to Rule 26(b)(1), and should include:

5           a. The extent, nature, and location of discovery anticipated by the parties  
6 and why it is proportional to the needs of the case;

7           b. Suggested changes, if any, to the discovery limitations imposed by the  
8 Federal Rules of Civil Procedure;

9           c. The number of hours permitted for each deposition. The parties  
10 should consider whether a total number of depositions hours should be set in the case, such  
11 as 20 total hours for Plaintiffs and 20 total hours for Defendants. Such overall time limits  
12 have the advantage of providing an incentive for each side to be as efficient as possible in  
13 each deposition, while also allowing parties to allocate time among witnesses depending  
14 on the importance and complexity of subjects to be covered with the witnesses.

15       15. A statement of when the parties served their MIDP discovery responses;

16       16. Proposed specific dates for each of the following (deadlines should fall on a  
17 Friday unless impracticable):

18           a. A deadline for the completion of fact discovery, which will also be  
19 the deadline for final supplementation of discovery responses under the MIDP;<sup>2</sup>

20           b. Dates for full and complete expert disclosures under Federal Rule of  
21 Civil Procedure 26(a)(2)(A)-(C);

22           c. A deadline for completion of all expert depositions;

23           d. A date by which the parties shall have engaged in face-to-face good  
24 faith settlement talks;

---

25       <sup>2</sup> General Order 17-08 should be reviewed carefully. It requires parties to timely  
26 supplement their MIDP responses as new information is discovered. Parties who fail to  
27 timely disclose relevant information will be precluded from using it in the case and may be  
28 subject to other sanctions. Parties who unreasonably postpone disclosure of relevant  
information to the end of the discovery period will also be subject to sanctions.

1 e. A deadline for filing dispositive motions.

2 17. Whether a jury trial has been requested and whether the request for a jury  
3 trial is contested (if the request is contested, briefly set forth the reasons);

4 18. The prospects for settlement, including any request of the Court for  
5 assistance in settlement efforts; and

6 19. Any other matters that will aid the Court and parties in resolving this case in  
7 a just, speedy, and inexpensive manner as required by Federal Rule of Civil Procedure 1.

8 The parties shall jointly file the Case Management Report with the Clerk not less  
9 than seven days before the Case Management Conference. It is the responsibility of  
10 Plaintiff(s) to initiate the Rule 26(f) meeting and preparation of the joint Case Management  
11 Report. Defendant(s) shall promptly and cooperatively participate in the Rule 26(f)  
12 meeting and assist in preparation of the Case Management Report.

13 D. Case Management Order.

14 The Court directs counsel and any unrepresented parties to Federal Rule of Civil  
15 Procedure 16 for the objectives of the Case Management Conference. Counsel who will  
16 be responsible for trial of the lawsuit for each party, and any party that is not represented  
17 by counsel, shall participate in the Case Management Conference and shall have authority  
18 to enter into stipulations regarding all matters that may be discussed. A continuance of the  
19 Case Management Conference will be granted only for good cause.

20 As a result of the Case Management Conference, the Court will enter a Case  
21 Management Order. The form of the Court's standard Case Management Order can be  
22 found on the Court's website at [www.azd.uscourts.gov](http://www.azd.uscourts.gov) under Judges and Courtrooms and  
23 Orders, Forms and Procedures. The Court fully intends to enforce the deadlines in the Case  
24 Management Order. The parties should plan their litigation activities accordingly.

25 E. Other Matters.

26 The parties are expected to comply fully with the Federal and Local Rules of Civil  
27 Procedure and to minimize the expense of discovery. The parties should ensure that all  
28 filings comply with Local Rules of Civil Procedure 7.1 and 7.2. In addition, in all filings,

1 citations in support of any assertion in the text shall be included in the text, not in footnotes.  
2 The Clerk of the Court shall send copies of this order to all counsel of record and to any  
3 unrepresented parties.

4

5 Dated this 15th day of May, 2020.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

  
\_\_\_\_\_  
Susan R. Bolton  
United States District Judge